

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION**

**VONACIA JOHNSON,**

**Plaintiff,**

**vs.**

**SUPERIOR ASSET MANAGEMENT, INC.,**

**Defendant.**

**Case No. 10-00067-CV-W-GAF**

**ORDER**

Presently before the Court is Plaintiff Vonacia Johnson's ("Plaintiff") Motion for Order of Judgment Including Attorney Fees and Costs (Doc. # 28). Plaintiff seeks an Order of Judgment Including Attorney Fees and Costs following Plaintiff's acceptance of Defendant Superior Asset Management, Inc.'s ("Defendant") Order of Judgment pursuant to Fed. R. Civ. P. 68. (Doc. # 27). For the reasons set forth below, Plaintiff's Motion for Order of Judgment Including Attorneys Fees and Costs is **GRANTED** in part and **DENIED** in part.

**DISCUSSION**

**I. FACTS**

Plaintiff's Amended Complaint alleges Defendant violated provisions of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* (The "FDCPA"). (Doc. # 20). After settlement negotiations were unsuccessful, the case was set for trial. (Doc #15).

On June 21, 2010, Plaintiff filed a Notice of Acceptance of Defendant's Offer of Judgement pursuant to Fed. R. Civ. P. 68. (Doc # 27). Defendant offered and Plaintiff accepted to have judgment entered against Defendant in the amount of \$1,001.00, "plus court costs incurred to date in the amount of \$350, plus reasonable attorney's fees incurred to date of this offer." *Id.* The

Parties' Offer of Judgment states, "The reasonable attorney's fees shall be determined either by agreement of the parties, or in absence of agreement, by the court." *Id.*

Plaintiff now requests the Court approve the Offer of Judgment for \$1001.00, plus attorney fees in the amount of \$7,925.00, plus court costs in the amount of \$435.00, for a total Judgment amount of \$9,361.00. Defendant opposes awarding attorney's fees and costs, or in the alternative, requests a reduction of Plaintiff's claimed attorney fees to allow compensation for only reasonable and necessary time and expenses. (*See* Defendant's Memorandum in Opposition to Plaintiff's Motion for Order of Judgment Including Attorney's Fees and Costs, Doc. # 29).

## **II. LEGAL STANDARD**

The FDCPA provides for damages, including an award for costs and reasonable attorney fees, as a remedy for violating its provisions. § 1692k(a)(3). The Court has discretion to determine reasonable attorney fees. *Hensley v. Eckerhart*, 461 U.S. 424, 437 (1983).

## **III. ANALYSIS**

Having reviewed the case, the Court is satisfied that Defendant's Offer of Judgment was accepted by Plaintiff, and the Offer included a sum of \$1001.00, plus \$350.00 in court costs, plus reasonable attorney fees. The Parties cannot agree upon the amount to be awarded for attorney fees. Thus, the Court must determine whether Plaintiff's claimed attorney fees are reasonable. *See* Doc. # 27; *see also Hensley*, 461 U.S. at 437.

When determining reasonable attorney fees, the Court can review the number of reasonable hours expended on litigation multiplied by a reasonable hourly rate and the result obtained. *Hensley*, 461 U.S. at 433. The party seeking a fee award should submit evidentiary support of hours and rates claimed. *Id.*

Here, the attorney fees sought are reasonable. Plaintiff claims thirty-one point seven (31.7) hours were expended on litigation, which is not unreasonable. The \$250 hourly rate is reasonable. *See Smith v. Allied Data Corp.*, Civil Action No. 09-CV-06101-ODS (determining that a \$250.00 hourly rate was reasonable as set forth in *Hensley*, 461 U.S. at 433). Plaintiff provided adequate evidentiary support of hours worked and the rate claimed. (*See* Doc. # 28). Multiplying the 31.7 hours worked by the \$250.00 hourly rate equates to \$7,925.00 in reasonable attorney fees.

Finally, Plaintiff seeks recovery of costs in addition to those agreed upon in the Offer of Judgment. In the Offer of Judgment, Plaintiff agreed to \$350.00 as compensation for costs. The Court finds \$350.00 as compensation for costs is reasonable and denies Plaintiff's request to alter the amount.

### **CONCLUSION**

Plaintiff's Motion for Order of Judgment Including Attorney Fees and Costs is **GRANTED** in part and **DENIED** in part. Plaintiff's request for Judgment in the amount of \$1001.00, plus \$7,925.00 in reasonable attorney fees, plus \$350.00 in costs is **GRANTED**. However, Plaintiff's request for an additional \$85.00 in costs is **DENIED**.

**IT IS SO ORDERED.**

s/ Gary A. Fenner  
Gary A. Fenner, Judge  
United States District Court

DATED: September 8, 2010